

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JUNE 11, 2008**

- CALL TO ORDER** A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Mike Mower, Gordon Cross, Gene Dziza, Frank DeKort, Rita Hall, Randy Toavs , and Jim Heim. Marc Pitman had an excused absence. Andrew Hagemeyer, Alex Hogle and Jeff Harris represented the Flathead County Planning & Zoning Office.
- There were approximately 4 people in the audience.
- APPROVAL OF MINUTES** Toavs made a motion seconded by Hickey-AuClaire to approve the May 14, 2008 meeting minutes.
- The motion was carried by quorum.
- PUBLIC COMMENT**
(not related to agenda items) None.
- SCENIC VIEW SUBDIVISION (FPP 08-08)** A request by Michael Scott for Preliminary Plat approval of Scenic View Subdivision, a four lot single-family residential subdivision on 19.67 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at 215 Robert's Road and can legally be described as Tract 6B in Section 33, Township 30 North, Range 20 West, P.M.M., Flathead County, Montana.
- STAFF REPORT** Andrew Hagemeyer reviewed Staff Report FPP 08-08 for the Board.
- BOARD QUESTIONS** Hall asked when it had been subdivided before.
- Hagemeyer stated it was tract land and had never been subdivided. There had been a number of different exemptions that occurred over time that would equal a major subdivision. It's a four lot subdivision but with previous exemptions it would be a major subdivision.
- DeKort asked if there were an easement for a bike/pedestrian path.
- Hagemeyer said there was not because we usually don't hassle with easements along state highways for bike paths, and Roberts Road is a private road not a county road, so we wouldn't ask for an easement.
- Cross asked about condition #15 a.
- Hagemeyer clarified and stated it was something staff was trying to put on subdivisions in unzoned areas to clarify, down the road, if

somebody came in with a commercial proposal for that property, staff could go back and check the subdivision approval to see what it was originally approved for.

Cross stated it was the first time he had seen this condition.

Hagemeier explained the standard conditions and the unique conditions.

Harris stated that typically when an application is submitted it has to have the water and sewer information that reflects what the subdivision would be classified, whether it's single-family residential, commercial or whatever. In this case it was for single-family residential.

Cross asked if that were a legal restriction on the lot.

Harris said under state statute they are required to submit the water and sewer information even though the board and the county don't act on it. If they submit that information as single-family residential then that's what would go forward to DEQ for approval. If an applicant were to propose another use then that's what would go forward to DEQ for approval. Staff doesn't tell an applicant what to propose, but whatever they do propose, that is what follows the application through the entire system because the public has an opportunity to review pertinent information regarding that application.

Cross asked if someone were to buy Lot 1 and want to put in storage units, for instance, would they have to come back through the planning office for approval.

Harris said only if there were to be a change in the water and sewer information. They would have to file an amended plat.

Hogle spoke of an example he dealt with recently in the planning office.

Mower stated we somehow had gotten away from vicinity maps and he couldn't tell where the subdivision really was. We should have a vicinity map.

APPLICANT PRESENTATION

Narda Wilson, 184 Midway Drive, represented the applicant. She said this was a pretty straightforward subdivision and Hagemeier did a thorough job in the staff report. She spoke of Roberts Road and the fact it extends further to the west and serves an additional four lots to the north, and an additional six lots to the south. She pointed the road out on the map and stated that in order to meet the subdivision regulations and county standards, they are proposing to upgrade a portion of Roberts Road and provide a hammer-head turnaround consistent with design and construction standards for county gravel

roads. That would essentially amend conditions #16 and #17. She offered some replacement language to combine the conditions. She commented that she couldn't find anything in the subdivision regulations to support condition #18. The health department is typically responsible for where the septic systems are located, and she was concerned about how the applicant might demonstrate the depth to groundwater ratio. She commented the condition really conflicts with how the health department looks at that. She pointed out on the map where the drain fields were located and said the log that was provided for the DEQ information was incomplete. There are more complete logs that showed there was no groundwater eight feet or less on lot one. The other thing that was brought up relates to the use of these lots for single-family residences. Just so it is perfectly clear, the covenants do allow for some limited commercial uses, such as a home occupation or home-based businesses. The language in the staff report is somewhat more restrictive even than what zoning would allow. She wanted to make sure condition #15a wouldn't preclude limited commercial uses related to home based businesses. She stated they didn't have any other concerns with the staff report and appreciated the staff's support. She hoped the planning board would agree the proposal is consistent with the area and is a reasonable request and would forward a favorable recommendation to the county commissioners.

**AGENCY
COMMENT**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

Hagemeier stated staff would be fine with the combining conditions #16 and #17 and the change in the wording. He pointed out that Roberts Road does not have a cul-de-sac, the road just sort of ends at a driveway. That's why he asked for a cul-de-sac or hammerhead turn-around. As for condition #18, he felt it was staff's responsibility to review for effects on the natural environment and groundwater and to condition things that might impact ground water. He felt this was a pretty reasonable step to take to protect groundwater. In regards to condition #15, he would be fine with saying that landowners would be notified this subdivision is approved for single-family and home-based businesses.

Heim asked if there were a definition for home based business.

Hagemeier said there might be in the zoning regulations but that wouldn't apply in this case. There is not a definition in the new

development code either.

Harris said typically home based uses do not generate excess traffic. If you're doing uses that don't involve retail or wholesale where people are coming to you, those are the types of home-based businesses that don't generate traffic too much above and beyond a single-family dwelling. That's how the zoning regulations define home-based uses.

Hickey-Au Claire read from the CC&R's a section regarding home-based businesses and manufacturing.

Wilson said she would like the language in the conditions to be consistent with what is allowed in the covenants.

Mower commented he would be concerned with the manufacturing part of the CC&R's.

Hagemeier said he thought the manufacturing was a departure from the review he had done. He reviewed the application as if it would be four homes. He said a commercial use would require a higher level of review including what he felt would be the most significant thing which would be the traffic. He calculated that each lot would be a single family residence and if it were commercial there could be a significant difference in impacts.

Toavs said we either have a single-family residence or something else.

Harris said the application was given to the planning office as a single-family residential subdivision and that's what it should be.

Wilson said there may be a little bit of confusion. The subdivision is intended for single-family residential development. That would be the principle primary use on the property. When we talk about manufacturing on a home-based business it could be something like making candy or jam, and she thought the nomenclature of manufacturing was a little misunderstood in that context. We are looking at a single-family residential subdivision that would allow limited commercial uses of a home-based business nature. Light manufacturing would be something that would fit under the definition of a home occupation and fit under the county's definition of a home occupation which talks about goods that are being produced onsite and not sold on a retail basis. If it went beyond impacts not consistent with what the health department approved it would not be allowed.

Toavs asked if the board were to leave it in there would somebody have to come back and explain what they want to do as far as a home-based business.

Harris said no because the board is reviewing it in conjunction with

other pieces of information, primarily the water and sewer, or in this case the well and septic. If they are going to be doing something at home that doesn't require some other type of wastewater system they wouldn't come back to the board. He felt the board would be covered if they approved it for single family residences. That's as far as you can go without zoning, and it's a good thing to put on the plat. He said it makes sense if there is a change in the use that requires changes to the application and the information submitted as part of that application. They should do an amended plat. He gave an example (Fox Hill Estates) and said if applicants are going to change the use they need to come back through the process.

The board and staff discussed condition #15a regarding home-based businesses.

Dziza commented they have 5 acre lots and he thought a person should be free to pursue that kind of activity and keep a reasonable amount of equipment on their property. He would support what staff proposes.

**MAIN MOTION
TO ACCEPT
F.O.F.**

Dziza made a motion seconded by Hall to adopt staff report FPP 08-08 as findings-of-fact.

**BOARD
DISCUSSION**

Mower agreed with Dziza and said there are a lot of places around here with 20 pieces of equipment. At what point in a residential subdivision does too much machinery become a business. He felt that was an issue and stated the board needed to be a little careful as it is subject to abuse.

Dziza said you just about need a definition.

Cross commented that he didn't have a problem with the subdivision but with the substandard private road that creates access to other tracts, which could be further subdivided. The road is not getting paved and what he thought was there is going to be a need out there or they could end up with a dust problem with a substandard road.

**MAIN ROLL CALL
TO ACCEPT
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL**

Dziza made a motion seconded by Hall to recommend approval of staff report FPP-08-08 as conditioned to the Flathead County Commissioners.

**BOARD
DISCUSSION**

Dziza asked for clarification regarding the recommended approval of Roberts Road. He asked staff if they were recommending widening the road to the end or just to the end of the subdivision.

Hagemeier said wherever the turnaround is.

Cross said the language submitted by the applicant states Roberts Road shall be upgraded to county standards for gravel roads with a minimum 24 foot wide gravel surface so that physical and legal accesses will be provided to all lots. He would presume they are not going to go any further than necessary past what would be the eastern boundary of lot 1. That's where the widening would be.

The board and staff discussed the turnaround, driveway accesses and the width of the road according to county standards.

Toavs asked about improving Roberts Road if any other subdivision were to be proposed and approved.

Harris referenced the design standards for the county stating there would need to be 24 feet of paved surface with two foot shoulders on either side. We would suggest the board not do that in this situation it's a little bit much.

**MOTION TO
COMBINE
CONDITIONS #16
AND #17**

Cross made a motion seconded by Mower to combine conditions #16 and #17 to read: *Roberts Road shall be upgraded to county standards for gravel roads with a minimum 26 foot wide gravel surface to the western property line of lot one and the roadway will incorporate an approved hammerhead turnaround. The roadway shall be constructed prior to final plat approval and certified by a licensed engineer that it complies with the Flathead County Road & Bridge Departments minimum standards for design and construction for local gravel roads.*

**BOARD
DISCUSSION**

Toavs made a comment that if there is ever a future road design that would be possible, Roberts Road could possibly become a county road because of the location of it.

**ROLL CALL TO
COMBINE
CONDITIONS #16
AND #17**

On a roll call vote the motion passed unanimously.

**MOTION TO
AMEND
CONDITION #15a**

Hall made a motion seconded by Dziza to amend condition #15a to read: *Landowners are notified that this subdivision is approved for single-family use including home-based businesses.*

**BOARD
DISCUSSION**

Cross said the problem is they need a definition.

Toavs said there is a lot of self-employed people around and they need that option but he didn't know how to put a limit on it.

Harris said there is a very specific definition of home-based business. The parking of equipment is not a home-based business.

Cross commented that there needs to be a home-based business definition in the development code so anytime there is a question the board can say, as defined in the Flathead County Development Code.

**ROLL CALL TO
AMEND
CONDITION #15a**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Harris stated there is a definition for home-based occupation. He read it for the board. (A specialized commercial use of a scale which is still secondary to the residential use; has no adverse impact on the neighborhood, and no walk-in traffic generation. Such uses may include, but are not limited to, art and photography studios, computer programming, insurance sales and handicrafts. The conducting of a hospital, barber shop/beauty shop, tea room, tourist home, animal hospital or other traffic generation uses shall not be deemed to be a home occupation.)

Cross said since that is what the definition is the board could use that language.

**MOTION TO
AMEND
CONDITION #15A**

Cross made a motion seconded by Heim to add a condition to state: *Landowners are notified that this subdivision is approved for single-family use including home occupations as defined in the Flathead County Development Code.*

**ROLL CALL TO
AMEND
CONDITION #15A**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Cross said he noticed in the CC&R's the lots can be further subdivided as long as it was lower than six acres. He said because of the traffic issues and the road not being paved he wanted to add a condition.

**MOTION TO
AMEND
CONDITION #15b**

Cross made a motion seconded by Hickey-AuClaire to add a condition to state: *No further subdivision of lots unless allowed by future zoning.*

**ROLL CALL TO
AMEND
CONDITION #15b**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
ROLL CALL TO
RECOMMEND
APPROVAL**

On a roll call vote the motion passed unanimously.

**Re-Subdivision of
Lot 9, Block 1,
SOLBERG ACRES
(FPP 08-05)**

A request by Robert Morton for Preliminary Plat approval of the re-subdivision of Lot 9, Block 1, Solberg Acres, a 2 lot single-family residential subdivision on 0.927 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located at 326 Helena Flats Road and can legally be described as Lot 9, Block 1, Solberg Acres in Section 34, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

STAFF REPORT

Alex Hogle reviewed Staff Report FPP 08-05 for the Board.

**BOARD
QUESTIONS**

Toavs stated he felt he wasn't sure conditions #14 and #15 really don't belong in the report. He asked staff where the sewer and water studs are right now for that.

Hogle said they are connected on the Helena Flats side. There are materials in the staff report that show the lines but he did not know the exact location of the studs.

Toavs said if there aren't any there he believed it was the sub dividers responsibility to at least get the hook up to the lot. He reiterated it is the standard for the developer to cut up the street and do the tap so if you are buying a lot that has water and sewer you only have to hook it up.

Heim stated the application says that water and sewer are in place.

Hall asked about the weed control plan stating that in the standards conditions it spells out lot owners are bound by the weed control plan. Does the board need to have a condition regarding knapweed since there is an abundance of it.

Hogle spoke about the plan and the weed department's involvement with the sub divider. He felt the standard conditions dealt with the issue.

Dekort asked if there were a bike path condition.

Hogle said no. Right now there is a bike path that terminates slightly to the north of this location on Helena Flats Road. It connects to the Helena Flats school. There is a trail currently in progress with the CTEP program, going across East Evergreen Drive that is literally just several hundred feet to the south. Pheasant Drive is more of an internal localized road compared to Helena Flats Road and staff didn't feel it was appropriate to put a condition regarding a bike path there.

Cross asked if there would need to be a condition regarding the variance. He said if they recommend approval they are also recommending approval of the variance to the county commissioners.

**APPLICANT
PRESENTATION**

Brian Wood, of Cache Creek Consulting, represented the applicant. He stated this was a pretty straight forward request. They did comply with zoning and the growth policy and are compatible with the neighborhood. No real issues were identified other than the existing roadway width. They requested a variance and staff supported that variance. Regarding conditions #14 and #15, both water and sewer are stepped out to those lots.

Hall asked about the size of the lot.

Wood clarified and said they are dealing with less than one acre.

Cross asked if sewer and water were already hooked up to the existing house.

Wood said yes it is already hooked up and operating.

**AGENCY
COMMENT**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

Hogle stated he would like to address the bike path to be consistent with the preliminary plat. He said there could be a condition that stated the applicant shall dedicate a 15 foot bicycle/pedestrian path easement along Helena Flats Road.

**MAIN MOTION
TO ACCEPT
F.O.F.**

DeKort made a motion seconded by Hickey-Au Claire to adopt staff report FPP 08-05 as findings-of-fact.

**ROLL CALL TO
ACCEPT F.O.F**

On a roll call vote the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL**

DeKort made a motion seconded by Hall to recommend approval of staff report FPP-08-05 as conditioned to the Flathead County Commissioners.

**BOARD
DISCUSSION**

Mower stated that the board needed to go back and add a Finding-of-Fact regarding the water and sewer hook-ups already being available.

Cross said they would go back to that after they finish the motions already on the table.

**MOTION TO
DELETE
CONDITIONS #14
AND #15**

Dziza made a motion seconded by Mower to delete conditions #14 and #15.

**ROLL CALL TO
DELETE
CONDITIONS #14
AND #15**

On a roll call vote the motion passed unanimously.

**MOTION TO ADD
CONDITION #15**

DeKort made a motion seconded by Dziza to add condition #15 that would read: *The applicant shall delineate a 15 foot bicycle/pedestrian easement along Helena Flats Road on the face of the final plat.*

ROLL CALL TO

On a roll call vote the motion passed unanimously.

**ROLL CALL TO
RECOMMEND
APPROVAL**

On a roll a call vote the motion passed unanimously.

**MOTION TO ADD
FINDING-OF-
FACT #12**

Mower made a motion seconded by Toavs too add finding-of-fact #12 to read: *Public testimony provided indicated that the sewer and water connections have already been completed to Lot 9A.*

**ROLL CALL TO
ADD F.O.F #12**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Harris handed out a work plan the board had discussed at their retreat. Staff put together a draft of projects for staff and the board that the board might consider forwarding to the county commissioners. (see attached)

Harris stated staff came up with a couple of items important to the county that we haven't started to tackle. At the retreat, staff and the board members discussed coming up with a work plan and ship it off to the county commission to have them 'bless' some things for staff to work on. Staff put together a list of some of the activities they thought would be appropriate for the planning board to provide oversight, either in terms of committee or the full board. That would include one of the more important things we really should be doing, which is the existing land use map. Because that existing land use map becomes the basis or the base line foundation for a lot of other things. We really don't have a comprehensive valley wide existing land use map. Of course the gravel resources needs to be accomplished, the odp standards need to be addressed, the zoning regulations need to be updated, the public facilities map he thought was a good first start in assisting with putting together the development predictability map which could be based on public service delivery. It's important to know where the existing public facilities are. The new neighborhood plans are something the board may think about assigning board

members to. He spoke about what taking back the donut means and told the board to think about other items they might want to see on the list.

Hall asked if the county pulls back on the Whitefish donut will they leave the Columbia Falls donut in place.

Harris said that is the intent for now.

Cross commented that at the retreat some board members were interested in doing something that might involve planning as opposed to holding hearings. The question for the board was, are there any activities on the list or not, that the board wanted to engage in. He thought that was really the question was there anything here people would want to become engaged in over and above the public hearings.

Mower commented that the board should prioritize the list themselves. He felt some of the things there was little the board could do about. He felt a couple of the items were of critical importance and wondered what the board thought would be the degree of importance. His top two were long range planning and zoning and the development predictability map as it is a step in that direction. The board is faced with issues on density at every meeting. He felt, in his opinion, the development predictability map is the most important issue. The overall development plan is something the board could work on. He would contribute more time to those issues himself.

Toavs commented that if the board takes on any of those items it would have to be publicized and open to the public.

Harris said yes, even if it were a committee it would all have to be publicized.

Toavs said he wasn't trying to get away from the public process but he had hoped things could be worked on as a committee and then brought before the public for input and review.

Cross said ultimately what we find is even though the meetings are publicized, we won't get a whole lot of participation until such time we have something finished.

Hickey-Au Claire stated she thought the development predictability map was a high priority as was the existing land use. She said she was willing to put more time in or whatever the board needs to do.

Cross said you couldn't have a good development predictability map without having a good existing land use map. That's one of the building blocks the county has to have in order to think about a future land use map.

Toavs said we have an existing land use map but it is taxed based.

Harris said we also have the national resource inventory system data we could use. But we would like some inter-workings with the planning board to do that.

The board and staff discussed how much input and work would have to be done by staff and the board members for projects on the list.

Board members talked about which items on the list were high priority to them. They also discussed neighborhood plans that exist and are in need of updates as well as new plans being proposed.

NEW BUSINESS

Harris handed out the subdivision report template to the board and went through the changes the board could anticipate.

ADJOURNMENT

The meeting was adjourned at approximately 8:15 p.m. The next meeting will be held at 6:00 p.m. on June 18, 2008.

Gordon Cross, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 7/9/08